

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

BRUNSON COMMUNICATIONS, INC., :
Plaintiff :
 : NO. 02-CV-3223
v. :
 :
ARBITRON, INC., :
Defendant :
 :

MOTION FOR LEAVE TO AMEND

Plaintiff respectfully moves Plaintiff respectfully moves for leave
to conform to any requisite additional allegations which might be
required required in view of required in view of the Court required in view
Dismiss filed by defendant Arbitron, and avers in support thereof
the following:

1. Both as to the disparagement count and the negligence
count count defendant has one ground for dismissal, the assertion
that the plaintiff has not adequately pled specific damages, or met the
common law standards for such allegations.

2. As set forth in plaintiff's memorandum in opposition to
the Motion, the Motion, plaintiff believes that the Second
meets the standards of required required in view of the Court required in view
plaintiff has alleged the type of damages caused, i.e., loss of
customers and therefore loss of revenue, and loss customers and t

with similar results. (Second Amended. (Second Amended Complaint, paragraph 38).

3. Further, as set forth in the cases, plaintiff has attempted to bear in mind attempted to bear in mind why it cannot identify specific customers at this time.

4. Plaintiff is presently undertaking efforts to systematically research its files, now that a year has passed, in an effort to more systematically and actual damages.

5. Plaintiff is uncertain whether an expert analysis may or may not be feasible at this time or may not be feasible at this time in house belief.

6. Plaintiff believes that additional pleading is not required by the Federal Rules, which control the pleading requirements.

7. If, however, the court determines that the pleading requirements of Rule 8 are subordinate in this instance to common law elements and require common law standards, then plaintiff requests an opportunity to replead in order to express those points.

8. In addition, although plaintiff does not believe any other elements of the causes of action can be enhanced by additional pleading, plaintiff is not yet aware of the Court

requirements for such pleading, as compared to the Second Amended Complaint, and if the Court deems that the Complaint inadequately sets forth the cause of action (either because of new law such as the Sharpe case, or for any other reason or dispute as to the case, or requirements), then plaintiff requests an opportunity to reformulate the Complaint, if supported by some unexpected change.

9. Plaintiff relies upon the pleading rules and the liberality by which amendment is to be given pursuant to Rule 15, and as articulated by the Court and as articulated by the Court in its request for leave to amend, as an alternative request.

WHEREFORE, WHEREFORE, in the event the Court finds the Complaint to be wanting, plaintiff requests leave to amend.

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